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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,156	05/10/2001	Ernest W. Moody	MOODY #24	7134
24258	7590	09/28/2004	EXAMINER	
JOHN EDWARD ROETHEL 2290 S. JONES BLVD. #100 LAS VEGAS, NV 89146			MENDIRATTA, VISHU K	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/854,156

Applicant(s)

MOODY, ERNEST W.

Examiner

Vishu K Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 21 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 21, line 9, it is not clear what is meant by "the same preselected" cards. What is the selection process and who selects cards?

3. Claim 21 recites the limitation "the same preselected cards" in the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. Claims 1-22,25-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Kadlic (6,146,271).

Claims 1, 14,21,25: Kadlic teaches a method of playing a card game comprising the steps of a player selecting to play at least two hands (6:9-15), a player making a wager which is allocated among the hands selected to play (8:1-6), dealing and displaying face up a number of partial hands corresponding to number of hands selected (8:13-16) by

player (abstract), each partial hand having same cards (Fig.4), revealing cards to complete five card hands (8:40-42), determining ranking of hands and paying (9:1-6). Kadlic teaches all limitations except that it applies these steps in addition to steps for playing a draw poker.

While Kadlic does not explicitly indicate playing a stud poker, however it implicitly teaches applying the rules to a stud poker (5:66-67).

While some players are attracted towards draw poker others like to play stud poker.

In order to attract players and promote the game amongst stud players, it would have been obvious to modify a stud poker to include claimed steps as inferred by Kadlic. One of ordinary skill in art at the time the invention was made would have suggested modifying Kadilac's poker to create a variation to play a stud poker like game.

Claims 2-5: Kadlic teaches variation in number of face up cards in a partial hand (8:13-16).

Claim 6,7,18,19,23,24: Kadlic teaches each additional cards, (in this case cards that were dealt face-down) belong to their own deck of cards (8:16-20) or from one deck of cards.

Claim 8,10: Kadlic teaches all limitations of this claim except that it does not teach selecting five-card poker hand from a hand having seven cards.

While Kadlic does not elaborate its application in conjunction with playing a seven card stud poker it does indicate its application into stud poker (5:66-67).

While some players are attracted towards draw poker others like to play stud poker and commonly well known as seven card stud poker.

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In order to attract players and promote the game amongst stud players, it would have been obvious to modify a commonly known seven card stud poker to include claimed steps as inferred by Kadlic. One of ordinary skill in art at the time the invention was made would have suggested modifying Kadilac's poker to create a variation to play a stud poker like game.

Claims 15-17: Applicant's claims are open ended claims and a five card hand covers a two, three or four card final hand.

Claim 22: Kadlic teaches possibilities of hands with several combinations including straight flush, straight, three of a kind and pairs.

Claim 26: Kadlic uses a video to display cards inherently suggests that cards are dealt randomly.

5. Claims 9,11,12 rejected under 35 U.S.C. 103(a) as being unpatentable over Kadlic (6146271) in view of Kadlic (5,853,325).

Kadlic (6146271) teaches all limitations of these claims except that it does not clearly teach selecting a best-six or a best-seven cards from a seven card stud.

Kadlic (5,853,325) teaches a variation of seven card stud determining poker hands of six or seven card ranks.

While some players are attracted towards draw poker others like to play variations of stud poker and commonly well known as seven card stud poker.

In order to attract players and promote the game amongst variations of stud players, it would have been obvious to modify a commonly known seven card stud poker to include claimed steps as inferred by Kadlic. One of ordinary skill in art at the time the

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invention was made would have suggested modifying Kadilac's poker to create a variation to play a stud poker like game.

6. Claims 13,20 rejected under 35 U.S.C. 103(a) as being unpatentable over Kadlic (6146271) in view of Hachquet (6135883).

Kadlic teaches all limitations except that it does not teach awarding bonus of two identical hands.

Hachquet teaches a player being rewarded for identical poker hands (abstract).

Awarding bonuses is a common practice in card games and gaming houses award bonuses for various predetermined combination of cards. Such variations are created by gaming institutions to attract players. Here it is important to note that Kadilac also uses multiple decks of cards and chances are that two or more hands can be identical. One of ordinary skill in art at the time the invention was made would have suggested awarding bonus for two or more identical hands.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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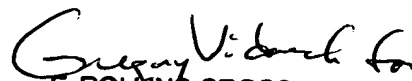
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vishu K Mendiratta
Primary Examiner
Art Unit 3712

VKM

September 14, 2004



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